

Notice of Allowability

Application No.

09/942,537

Examiner

Alvin J Stewart

Applicant(s)

BUSKIRK ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 08/19/04.
2. ☒ The allowed claim(s) is/are 8-10, 12-27, 29-35 and 64-66 (renumbered as 1-29).
3. ☒ The drawings filed on 08/29/01 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Donald J. Pochopien on September 02, 2004.

The application has been amended as follows:

In claim 14, line 5, the word "segment" has been replaced by the following: ---section and a body section---

In claim 14, line 7, the word "segment" has been replaced by the following: ---section and a body section---

In claim 14, line 7, the word "wherein" has been deleted.

In claim 14, lines 9 & 10 the phrase "comprise a slotted.....substantially planar segments" has been deleted.

In claim 14, line 11, the phrase "a slot formed by" has been replaced by the following: ---the slot of---

In claim 30, see attachment for changes.

In claim 32, at line 3, the word "aid" has been replaced by the word ---said---

The following is an examiner's statement of reasons for allowance: After careful consideration of the Applicant's remarks the Examiner has found the independent claims are allowable. There is no evidence in the prior art of a block comprising a first substantially planar

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segment of cortical bone having a first slotted section and a second substantially planar segment of cortical bone having a second slotted section. The segments are connected to each other by sliding the first slotted section into a slot formed by the second slotted section.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 703-305-0277. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alvin J Stewart
Primary Examiner
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September 02, 2004.

30. (Currently Amended) An assembled implant, comprising:

a. a first matable segment having a first inner mating surface, said first inner mating surface comprising at least one protrusion extending therefrom;

b. a second matable segment having a second inner mating surface, said second inner mating surface comprising at least one hole formed thereon to receive the at least one protrusion on said first inner mating surface; and

c. a length of flexible material comprising processed soft tissue and having a first end and a second end, said first end placed between the inner mating surfaces of the first and the second segments, such that when the first and second segments are joined so the at least one hole receives the at least one protrusion, said first end of said length of flexible material is compressed or held therebetween and said second end extends beyond said matable segments,

wherein said first matable segment and said second matable segment are semi-conical shaped and comprise an exterior surface with threads defined thereon, wherein when said first and second segments are brought together, said threads are aligned.

Also, claim 32 at line 3, delete "aid" and substitute said.